IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

JUDGES ORDER NO.61 OF 2006
IN
NOTICE OF MOTION NO.2801 OF 2002
IN
SUIT NO.3310 OF 2002

Sachin D. More Plaintiff

versus

Smt.Shamika M. Loke Defendant

Shri J.S.Kini for plaintiff.

Mr.Sarambalkar i/by N.H.Vaishnava for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th March 2006

PC :

1. Heard Shri Kini for the plaintiff and Shri Sarambalkar for the defendant. Perused the Judges Order and the affidavit in support thereof including the orders passed by this Court from time to time. It is clear that the order appointing Court Receiver passed by this Court as early as on 26th September 2004 has not been implemented. Once again, a request is made by the learned advocate appearing for the defendant

that the defendant is inclined to settle the matter and, therefore, desires that some time may be given for negotiations with the plaintiff. This request is opposed by Shri Kini and he points out that time was sought by the defendant earlier on same ground.

2. The learned counsel appearing for defendant states, on instructions from the husband of the defendant who is present in the Court, that the defendant is ready and willing to file an undertaking in this Court incorporating therein a specific statement that if within a period of four weeks from today the settlement proposal is not accepted the defendant would hand over vacant and peaceful possession of the property to the Court Receiver, High Court, Bombay as directed in the order dated 26th August 2004. The undertaking would further incorporate a statement that the defendant is in possession of the suit premises presently and that no other person or any third party is either claiming any right, title or interest therein or is in physical possession thereof. Learned advocate states that the undertaking in the aforesaid terms would be filed in this Court within a period of 15 days from today.

3. Needless to state that if the undertaking is not filed, it would be open for the Court Receiver to break open the locks and take possession of the suit premises with Police assistance. Further needless to add that if such an undertaking is filed as above, then the Court Receiver not to dispossess the defendant for a period of four weeks from today. Application disposed of.

(S.C.DHARMADHIKARI, J.)